

**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION**

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Southampton Pointe Property Owners
Association, Inc.,

Plaintiff,

v.

OneBeacon Insurance Company, and
St. Paul Fire and Marine Insurance
Company,

Defendants.

No. 2:12-cv-03035-RMG

ORDER

This matter comes before the Court on two motions filed by Plaintiff Southampton Pointe Property Owners Association on April 1, 2013. (Dkt. Nos. 39, 42). Plaintiff asks this Court to compel Defendants OneBeacon Insurance and St. Paul Fire and Marine Insurance to produce certain documents which Plaintiff asserts are relevant to its claims in this matter. (*Id.*). For the reasons that follow, the Court GRANTS in part and DENIES in part Plaintiff's motions.

Background

This case relates to whether Defendants, both insurers, owed a duty to defend Wood Real Estate Investors, LLC and WREI, Inc. in a state court action seeking compensation for certain construction defects at a housing development. (Dkt. No. 1-1 at 7). Wood Real Estate and WREI assigned any rights they had against Defendants to Plaintiff. (*Id.*). Plaintiff brings this suit to assert those purported rights, alleging Defendants' breached their insurance contracts and acted in bad faith in declining to defend Wood Real Estate and WREI in state court. (*Id.* at 9).

Defendants dispute that Wood Real Estate and WREI had coverage. (Dkt. Nos. 20, 25). Also, as an affirmative defense, Defendant St. Paul Fire and Marine Insurance Company states that, “[a]t all times relevant to this action, St. Paul acted in good faith and possessed objectively reasonable bases for the manner in which it has handled the claim that is the subject of this action.” (Dkt. No. 20 at 8). St. Paul further asserts that it “complied with industry standards in the handling of the claim that is the subject of this action.” (*Id.*). Similarly, Defendant OneBeacon asserts that it “acted in good faith and possessed objectively reasonable bases for the manner in which it handled the claim and tender that is the subject of this action.” (Dkt. No. 25 at 5).

The parties proceeded with discovery. On October 31, 2012, Plaintiff served its production requests on Defendants. (Dkt. Nos. 39-1, 42-1). After Defendants responded to that request, (Dkt. Nos. 39-2, 42-2), Plaintiff sent a letter informing each Defendant that, in Plaintiff’s view, their production had been incomplete, (Dkt. Nos. 39-3, 42-3). In those letters, Plaintiff listed the sets of documents that it maintains should be produced, specifically:

1. letters, memoranda, and email correspondence between the insurers’ employees and their defense counsel concerning the policies, facts and underlying litigation;
2. claims files from the underlying litigation
3. underwriting files;
4. policy manuals relating to handling, processing and/or investigating of claims, duty to defend, refusal to defend and determination of coverage for construction claims;
5. advertising, sales, promotional and marketing materials;
6. underwriting manuals;
7. income statements, balance sheets and tax returns for 2009, 2010, and 2011;
8. prior bad faith claims in South Carolina for unreasonable denial or breach of the duty to defend with the last five years; and
9. total sum each insurer spent on defending Trammell Crow and its related entities in the underlying case.

(*Id.*).

After neither Defendant responded to Plaintiff's letter, Plaintiff filed these motions to compel. (Dkt. Nos. 39, 42). Defendants responded to oppose the motions, generally asserting the attorney-client and the work product privileges, as well as raising objections based on relevancy, proprietary information, privacy of other insureds, and "overbreadth/undue burden." (Dkt. Nos. 48, 51).

On May 7, 2013, the Court issued an order on these motions. (Dkt. No. 55). The Court instructed Defendants to "review again the requested documents that form the basis for Plaintiff's motions to compel, and to produce promptly any documents that they, upon this fresh review, conclude are in fact discoverable." (*Id.* at 2). The Court added that:

[i]f, after this additional review and production, Defendants continue to oppose production of certain documents, Defendants are instructed to submit to the Court for *in camera* review all documents that remain the subject of these motions to compel. Defendants are further instructed to include along with that submission to the Court a log providing their specific, document-by-document objections to production.

(*Id.*). Defendants later submitted these disputed documents for *in camera* review.

Legal Standard

Parties to civil litigation "may obtain discovery regarding any nonprivileged matter that is relevant to any party's claim or defense," including any information that "appears reasonably calculated to lead to the discovery of admissible evidence." Fed. R. Civ. P. 26(b)(1). Courts are to construe broadly rules enabling discovery. *Nat'l Union Fire Ins. Co. of Pittsburgh, Pa. v. Murray Sheet Metal Co.*, 967 F.2d 980, 983 (4th Cir. 1992) (quoting *Hickman v. Taylor*, 329 U.S. 495, 507 (1947)). Thus, "[d]uring discovery, relevance is broadly construed 'to encompass any matter that bears on, or that reasonably could lead to other matter that could bear on, any issue that is or may be in the case.'" *Mainstreet Collection, Inc. v. Kirkland's, Inc.*, 270 F.R.D. 238, 240 (E.D.N.C. 2010) (quoting *Oppenheimer Fund, Inc. v. Sanders*, 437 U.S. 340, 351

(1978)). Conversely, limitations on discovery are to be construed narrowly. *See, e.g., Hawkins v. Stables*, 148 F.3d 379, 383 (4th Cir. 1998) (“attorney-client privilege is to be narrowly construed”); *RLI Ins. Co. v. Consecro, Inc.*, 477 F. Supp. 2d 741, 748 (D. Md. 2007) (“assertions of evidentiary privilege are narrowly and strictly construed”).

I. Attorney Client Privilege

In diversity cases, the availability of the attorney-client privilege is governed by the law of the forum state. Fed. R. Evid. 501; *Hottle v. Beech Aircraft Corp.*, 47 F.3d 106, 107 n.1 (4th Cir. 1995). The Court therefore applies South Carolina law here. Attorney-client privilege consists of the following essential elements: “(1) where legal advice of any kind is sought (2) from a professional legal advisor in his capacity as such, (3) the communications relating to that purpose, (4) made in confidence (5) by the client, (6) are at his instance permanently protected (7) from disclosure by himself or by the legal advisor, (8) except where the protection is waived.” *Tobacoville USA, Inc. v. McMaster*, 692 S.E.2d 526, 530 (S.C. 2010). “Because the privilege protects the substance of communications, it may also be extended to protect communications by the lawyer to his client, agents, or superiors or to other lawyers in the case of joint representation, if those communications reveal confidential client communications.” *United States v. (Under Seal)*, 748 F.2d 871, 874 (4th Cir. 1984).

It is well-settled, though, that internal communications between an insurer’s employees regarding a claim and the events surrounding it which are not directed to its counsel are not protected by the attorney-client privilege. *See Gilliard v. Great Lakes Reins. (U.K.) PLC*, No. 2:12-cv-00867-DCN, 2013 WL 1729509, at *2 (D.S.C. Apr. 22, 2013) (citing *Old Second Nat’l Bank of Aurora v. Commercial Union Midwest Ins. Co.*, No. 99 C 3941, 1999 WL 1068635, at *2 (N.D. Ill. Nov. 18, 1999)). Further, courts have

held that correspondence relating to a legal services bill generally does not qualify under the attorney-client privilege. *See United States v. (Under Seal)*, 774 F.2d 624, 628 (4th Cir. 1985) (finding it well established that the “attorney-client privilege normally does not extend to the payment of attorney’s fees and expenses”); *Miller v. Pruneda*, No. 3:02-cv-42, 2004 WL 3951292, at *9 (N.D. W. Va. Nov. 5, 2004) (stating that “the information is not advice sought by the client from his attorney in his capacity as a legal adviser”).

In South Carolina, the party asserting attorney-client privilege must establish lack of waiver. *Hege v. Aegon USA, LLC*, C/A No. 8:10-1578-GRA, 2011 WL 1791883, at *4 (D.S.C. May 10, 2011). “One way a party may implicitly waive the privilege is by placing a privileged communication ‘at issue’ in a case.” *Id.*; *City of Myrtle Beach v. United Nat’l Ins. Co.*, C/A No. 4:08-1183-TLW-SVH, 2010 WL 3420044, at *5 (D.S.C. Aug. 27, 2010) (“[I]f a defendant voluntarily injects an issue in the case, whether legal or factual, the insurer voluntarily waives, explicitly or impliedly, the attorney-client privilege.”) (citation omitted).

Determining whether a communication has been put “at issue” in a bad faith action is particularly thorny. *Myrtle Beach*, 2010 WL 3420044 at *5. The determination implicates “conflicting policies,” with “[t]he time-honored attorney-client privilege” on one side and “the duty of good faith and fair dealing an insurer owes to its insured” on the other. *Id.* at *4. Nevertheless, “[a]n insurer’s thoughts and knowledge are at the center of a claim for bad faith,” and the basis for the insurer’s evaluation of a claim is highly relevant—if not essential—to proving those “thoughts and knowledge.” *Id.* Thus, courts applying South Carolina law have held that where an insurer in a bad faith claim asserts

as an affirmative defense that it acted in good faith, then the insurer puts at issue the evidence it had before it at the time it denied the claim, including communications with counsel relevant to its state of mind. *Id.* 4–8; *see also Bonetto v. Allstate Ins. Co.*, No. 3:03-cv-3560-GRA, ECF 24 at *4–5 (D.S.C. July 20, 2004) (observing that, where “information regarding the state court trial only reached [the insurer] after being filtered through their attorney[,] . . . the reasonableness of the claims process necessarily implicates the advice of counsel”); *Howard v. State Farm Mut. Auto Ins. Co.*, 450 S.E.2d 582, 584 (S.C. 1994) (“Whether an insurance company is liable for bad faith must be judged by the evidence before it at the time it denied the claim . . .”) (citation omitted).

II. Work Product Doctrine

Federal law governs the work-product doctrine. *United Coal Cos. v. Powell Constr. Co.*, 839 F.2d 958, 966 (3d Cir. 1988). Under Rule 26(b)(3) of the Federal Rules of Civil Procedure, documents “prepared in anticipation of litigation” are generally protected from discovery, whether they were prepared by a party’s attorney, consultant, or other agent. Thus, for the work product doctrine to apply, “[t]he document must be prepared *because* of the prospect of litigation when the preparer faces an actual claim or a potential claim following an actual event or series of events that reasonably could result in litigation.” *Nat’l Union Fire*, 967 F.2d at 984. The proponent of work product protection must establish that the “driving force behind the preparation of each requested document” is the prospect of litigation. *Id.* In other words, to conclude that a document falls under the privilege, a court must be satisfied that the document “was not created during the ordinary course of business, . . . or for any non-litigation reason. If the work product would have been done in any event, it is not protected work product.” *Hege*, 2011 WL 1791883, at *6 (citations and quotation marks omitted). Further, even if a document is

found to constitute protected work-product, discovery of that work-product may be appropriate where the party seeking it has a “substantial need for the materials . . . and cannot, without undue hardship, obtain their substantial equivalent by other means.” Fed. R. Civ. P. 26(b)(3).

“The application of the work product doctrine is particularly difficult in the context of insurance claims.” *Kidwiler v. Progressive Paloverde Ins. Co.*, 192 F.R.D. 536, 541 (N.D. W. Va. 2000). “[I]nsurance companies have a duty to investigate, evaluate, and adjust claims made by their insureds. The creation of documents during this process is part of the ordinary course of business of insurance companies, and the fact that litigation is pending or may eventually ensue does not cloak such documents with work-product protection.” *HSS Enters., LLC v. Amco Ins. Co.*, No. C06-1485-JPD, 2008 WL 163669, at *4 (W.D. Wash. Jan. 14, 2008) (citation omitted); *see also Gilliard*, 2013 WL 1729509, at *2 (collecting cases); *Bonetto*, Dkt. No. 24 at *7–8; *St. Paul Reins. Co. v. Commercial Fin. Corp.*, 197 F.R.D. 620, 636 (N.D. Iowa 2000); *Pete Rinaldi’s Fast Foods, Inc. v. Great Am. Ins. Cos.*, 123 F.R.D. 198, 202 (M.D.N.C. 1988). Similarly, the privilege generally does not apply to underwriting files, underwriting guidelines and claims guidelines, all of which were prepared for the purpose of guiding the handling of a claim, and may also reflect the parties’ understanding should the contract itself be adjudged ambiguous. *See Beazer Homes Corp. v. Hartford Fire Ins. Co.*, No. 4:10-cv-2419, 2012 WL 6210323 (D.S.C. Dec. 13, 2012). Nor will expense records and reports be found protected, unless they reveal specific research and litigation strategy. *Chaudhry v. Gallerizzo*, 174 F.3d 394, 402–03 (4th Cir. 1999) (citation omitted).

That said, courts have concluded that “claims file notes prepared post-litigation concerning the employment of defense counsel” were subject to work product privilege. *See Atoka Precision Mach. Shop, LLC v. Peerless Ins. Co.*, No. CIV-11-445-FHS, 2013 WL 817279,

at *2 (E.D. Okla. Mar. 5, 2013). They have also held that an insurer's emails relating to a claim following the institution of a lawsuit are "immune from disclosure under the work product doctrine" because they "consist of communications between Defendant's representatives . . . in conjunction with Plaintiff's loss and claim after Defendant reasonably perceived that the circumstances could result in litigation." *Chambers v. Allstate Ins. Co.*, 206 F.R.D. 579, 588 (S.D. W. Va. 2002).

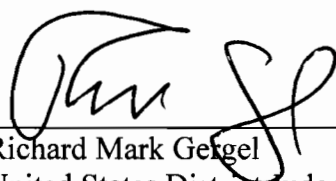
Discussion

In view of the standards stated above, the Court orders production as set forth in Appendices I and II. An "X" in the "Ruling" column of the table denotes that the document must be produced. If the Court has concluded that a document need not be produced, it has provided its basis for that conclusion in each table's "Ruling Column," as follows: "AC" denotes attorney-client privilege; "WP" denotes work-product protection; and "Irr." denotes the document's irrelevance to this action.

Conclusion

The Court GRANTS in part and DENIES in part Plaintiff Southampton Pointe Property Owners Association's motions to compel, as set forth in Appendices I and II. (Dkt. Nos. 39, 42).

AND IT IS SO ORDERED.


 Richard Mark Gekgel
 United States District Judge

Charleston, South Carolina
 July 15, 2013

APPENDIX 1. OneBeacon Insurance Company

Volume No. 1 – File Notes					
Date	Author/From	Recipient	Description	Privilege	Ruling
5/15/12	Kevin Caberto		Claims Note re: settlement of underlying action with TCR defendants	AC; WP Irr.	WP; Irr.
5/7/12	Kevin Caberto		Claims Note re: settlement discussions	AC; WP Irr.	WP; Irr.
5/1/12	Anthony Riggio		Claims Note re: pre-trial strategy conference	AC; WP Irr.	WP; Irr.
4/26/12	Kevin Caberto		Claims Note re: defense counsel pretrial report	AC; WP Irr.	WP; Irr.
4/18/12	Kevin Caberto		Claims Note re: coverage position of Chartis	AC; WP Irr.	WP; Irr.
4/13/12	Kevin Caberto		Claims Note re: Plaintiff's demand letter	AC; WP Irr.	WP; Irr.
4/12/12	Kevin Caberto		Claims Note re: litigation strategy & summary letter from coverage counsel	AC; WP Irr.	WP; Irr.
4/10/12	Robin Edoin		Claims Note re: defense cost payment	AC WP; Irr.	Irr.
3/23/12	Kevin Caberto		Claims Note re: communication with coverage counsel	AC; WP; Irr.	WP; Irr.
3/13/12	Kevin Caberto		Claims Note re: communication with coverage counsel concerning offer	AC; WP; Irr.	WP; Irr.
3/9/12	Kevin Caberto		Claims Note re: defense counsel updated report	AC; WP; Irr.	WP; Irr.
3/2/12	Kevin Caberto		Claims Note re: defense counsel report & rulings on motions	AC; WP Irr.	WP; Irr.
3/2/12	Kevin Caberto		Claims Note re: communication with coverage counsel	AC; WP; Irr.	X
2/22/12	Kevin Caberto		Claims Note re: Updated large loss advisory	WP Irr.	WP; Irr.
2/21/12	Anthony Riggio		Claims Note – management review concerning reserves & plan of action	WP Irr.	WP; Irr.

2/21/12	Anthony Riggio		Claims Note – amount of indemnity reserve	WP; Irr.	WP; Irr.
2/16/12	Anthony Riggio		Claims Note re: settlement negotiations in underlying action	AC WP Irr.	WP; Irr.
1/30/12	Kevin Caberto		Claims Note re: defense counsel update	AC; WP Irr.	WP; Irr.
1/24/12	Kevin Caberto		Claims Note re: settlement negotiations, status of offer	AC; WP Irr.	WP; Irr.
1/16/12	Kevin Caberto		Claims Note re: discussion with coverage counsel	AC; WP Irr.	Irr.
1/13/12	Anthony Riggio		Claims Note re: case strategy & conference call	AC; WP Irr.	WP; Irr.
1/11/12	Robin Edoin		Claims Note re: defense cost payment	AC WP; Irr.	Irr.
12/19/11	Kevin Caberto		Claims Note re: communication with coverage counsel	AC WP; Irr.	X
12/5/11	Kevin Caberto		Claims Note re: settlement in underlying action update	AC WP; Irr.	WP; Irr.
12/5/11	Kevin Caberto		Claims Note re: damages in underlying action & expert estimate	AC WP; Irr.	WP; Irr.
11/21/11	Kevin Caberto		Claims Note re: strategy in underlying action, update on mediation	AC WP Irr.	WP; Irr.
11/15/11	Robin Edoin		Claims Note re: defense cost payment	AC WP Irr.	Irr.
11/4/11	Robin Edoin		Claims Note re: defense cost payment	AC WP Irr.	Irr.
11/1/11	Anthony Riggio		Claims Note re: settlement discussions, amount & conference call	AC WP Irr.	WP; Irr.
10/28/11	Kevin Caberto		Claims Note re: status of underlying action & several conference calls	AC WP Irr.	WP; Irr.
10/24/11	Kevin Caberto		Claims Note re: communication with coverage counsel	AC WP Irr.	Irr.
10/24/11	Kevin Caberto		Claims Note re: communication with named insured and carriers & conference call	AC WP Irr.	WP; Irr.

10/21/11	Kevin Caberto		Claims Note re: defense counsel pre-mediation report	AC WP Irr.	WP; Irr.
10/17/11	Kevin Caberto		Claims Note re: mental impressions of conference call with insured, coverage counsel, and other carriers	AC WP Irr.	X
9/1/11	Anthony Riggio		Claims Note re: reserves & management review & plan of action	AC WP Irr.	WP; Irr.
8/31/11	Kevin Caberto		Claims Note re: defense counsel status update	AC WP Irr.	WP; Irr.
8/30/11	Mary Allinder		Claims Note re: internal discussions re: case strategy	AC WP Irr.	WP
8/15/11	Kevin Caberto		Claims Note – large loss advisory	AC WP Irr.	WP; Irr.
8/11/11	Anthony Riggio		Claims Note re: indemnity reserves authorized	AC WP Irr.	Irr.
8/3/11	Kevin Caberto		Claims Note re: status report from defense counsel & comments on that report	AC WP Irr.	X
8/2/11	Mary Allinder		Claims Note re: plan of action & loss reserve	AC WP Irr.	X
7/27/11	Kevin Caberto		Claims Note re: underlying action & add'l parties defense counsel defending	WP Irr.	X
7/27/11	Kevin Caberto		Claims Note re: strategy & conference call with Travelers, Trammell, Cordes Forde, Scott Woodward, & Micah Skidmore & upcoming schedule	AC WP Irr.	WP; Irr.
6/29/11	Kevin Caberto		Claims Note re: defense costs for expert bill	AC WP Irr.	Irr.
6/17/11	Mary Allinder		Claims Note re: status update of underlying action	AC WP Irr.	WP; Irr.
5/31/11	Kevin Caberto		Claims Note re: coverage analysis relating to Wood	AC WP Irr.	X

4/15/11	Kevin Caberto		Claims Note re: defense strategy and mental impressions of conference call with John Jacks, Cordes Forde & Harrison Trammell	AC WP Irr.	WP
4/4/11	Kevin Caberto		Claims Note re: communication with defense counsel re: class potential	AC WP Irr.	AC; WP
3/25/11	Kevin Caberto		Claims Note re: communication with defense counsel re: "as is" clause	AC WP Irr.	AC; WP
3/16/11	Kevin Caberto		Claims Note re: communication with defense counsel & revised ROR from coverage counsel	AC WP Irr.	X
3/11/11	Kevin Caberto		Claims Note re: communication with defense counsel and mental impressions of conference call with defense counsel, John Jacks and Scott Woodward.	AC WP Irr.	WP
3/11/11	Kevin Caberto		Claims Note re: communication with defense counsel re: deposition	AC WP Irr.	WP; Irr.
3/11/11	Kevin Caberto		Claims Note re: communication with defense counsel re: deposition	AC WP Irr.	WP; Irr.
3/9/11	Kevin Caberto		Claims Note re: status of underlying action regarding motion hearing & UTPA claims	AC WP Irr.	WP
3/2/11	Kevin Caberto		Claims Note re: defense costs & expert invoices	AC WP Irr.	Irr.
2/14/11	Kevin Caberto		Claims Note re: communication with defense counsel	AC WP Irr.	WP
2/11/11	Karen Rice		Claims Note re: plan of action re: reserve & expense	AC WP Irr.	X

2/11/11	Kevin Caberto		Claims Note re: plan of action/ determinations & review needed in case	AC WP Irr.	X
2/10/11	Kevin Caberto		Claims Note re: communication with defense counsel & update	AC WP Irr.	Irr.
2/9/11	Kevin Caberto		Claims Note re: communication with coverage counsel & his recommendations re: Wood	AC WP Irr.	X
1/31/11	Kevin Caberto		Claims Note re: communication with defense counsel (3 notes)	AC WP Irr.	AC; WP
1/28/11	Kevin Caberto		Claims Note re: communication with defense counsel & attending depositions	AC WP Irr.	Irr.
1/28/11	Kevin Caberto		Claims Note re: communication with defense counsel re: Wood's third party complaint	AC WP Irr.	X
1/12/11	Kevin Caberto		Claims Note re: coverage analysis re: Wood's third party complaint	AC WP Irr.	X
12/30/10	Kevin Caberto		Claims Note re: status of underlying action & consolidation of suits	AC WP Irr.	Irr.
12/27/10	Kevin Caberto		Claims Note re: coverage position discussion with Karen Rice	AC WP Irr.	X
12/22/10	Kevin Caberto		Claims Note re: coverage position re: Wood	AC WP Irr.	X
12/17/10	Kevin Caberto		Claims Note re: defense costs	AC WP Irr.	Irr.
12/17/10	Kevin Caberto		Claims Note re: communication with defense counsel	AC WP Irr.	X
11/12/10	Kevin Caberto		Claims Note re: communication with coverage counsel	AC WP Irr.	WP; Irr.
11/10/10	Kevin Caberto		Claims Note re: communication with coverage counsel	AC WP Irr.	Irr.

11/10/10	Kevin Caberto		Claims Note re: communication with defense counsel re: exposure number	AC WP Irr.	WP; Irr.
11/10/10	Kevin Caberto		Claims Note re: communication with coverage counsel	AC WP Irr.	X
11/8/10	Karen Rice		Claims Note re: coverage analysis re: Wood defense	AC WP Irr.	X
11/8/10	Kevin Caberto		Claims Note re: coverage counsel & conversation with Andrew Motroni re: same	AC WP Irr.	Irr.
11/8/10	Kevin Caberto		Claims Note re: coverage analysis re: Wood & AI tender	AC WP Irr.	X
11/8/10	Kevin Caberto		Claims Note re: defense strategy & conversation with Andrew Motroni re: defense report	AC WP Irr.	X
11/8/10	Kevin Caberto		Claims Note re: communication with defense counsel re: summary of new info.	AC WP Irr.	AC; WP
11/5/10	Kevin Caberto		Claims Note re: communication with defense counsel re: update	AC WP Irr.	AC; WP
10/19/10	Kevin Caberto		Claims Note	WP Irr.	Irr.
10/12/10	Kevin Caberto		Claims Note	WP Irr.	Irr.
10/1/10	Kevin Caberto		Claims Note re: defense costs (2 notes) re: invoices	AC WP Irr.	Irr.
9/28/10	Kevin Caberto		Claims Note re: defense costs in underlying action re: reserve amount	AC WP Irr.	Irr.
9/22/10	Kevin Caberto		Claims Note re: communication with named insured, Scott Woodward	WP Irr.	X
9/22/10	Kevin Caberto		Claims Note re: coverage counsel retention discussed with Andrew Motroni	WP Irr.	WP

9/22/10	Kevin Caberto		Claims Note re: communication with named insured, Scott Woodward re: Wood	WP Irr.	X
9/22/10	Kevin Caberto		Claims Note re: coverage analysis and mental impressions	WP Irr.	WP; Irr.
9/13/10	Kevin Caberto		Claims Note re: coverage analysis and mental impressions re: TCR & Wood separation agreement	WP Irr.	X
9/13/10	Kevin Caberto		Claims Note re: defense of underlying action & additional carriers	WP Irr.	WP; Irr.
9/2/10	Kevin Caberto		Claims Note re: communications regarding defense of underlying action & additional carriers and mental impressions re: same	AC WP Irr.	WP; Irr.
8/30/10	Kevin Caberto		Claims Note re: communication with coverage counsel re: coverage issues	AC WP Irr.	X
8/30/10	Kevin Caberto		Claims Note re: communication with defense counsel, Harrison Trammell re: building modifications	AC WP Irr.	WP; Irr.
8/27/10	Kevin Caberto		Claims Note re: communication with defense counsel, Harrison Trammell re: building modifications	AC WP Irr.	WP; Irr.
8/27/10	Kevin Caberto		Claims Note re: communication with defense counsel, Harrison Trammell re: cost of construction	AC WP Irr.	X
8/17/10	Karen Rice		Claims Note re: indemnity & expense reserves information	AC WP Irr.	Irr.
8/16/10	Kevin Caberto		Claims Note re: communication with coverage counsel, John Catizone & Karen Rice	AC WP Irr.	X

8/16/10	Kevin Caberto		Claims Note re: communication with defense counsel re: Wood defense & indemnity	AC WP Irr.	X
8/4/10	Kevin Caberto		Claims Note re: communication with coverage counsel, John Catizone	AC WP Irr.	X
7/30/10	Kevin Caberto		Claims Note re: communication with coverage counsel, John Catizone	AC WP Irr.	X
7/29/10	Karen Rice		Claims Note re: claim handling; strategy re: indemnity reserve	AC WP Irr.	X
7/28/10	Kevin Caberto		Claims Note re: communication with defense counsel re: update	AC WP Irr.	X
7/28/10	Kevin Caberto		Claims Note re: coverage analysis & conversation with Karen Rice re: Wood tender letter	AC WP Irr.	X
7/20/10	Karen Rice		Claims Note re: defense analysis and strategy & indemnity & expense reserves	AC WP Irr.	WP
7/7/10	Kevin Caberto		Claims Note re: communication with defense counsel re: Tripple J. (framer) tender	AC WP Irr.	X
6/30/10	Kevin Caberto		Claims Note re: named insured defense analysis re: Tripple J & TCR entities	AC WP Irr.	WP; Irr.
6/24/10	Kevin Caberto		Claims Note re: defense of underlying action	AC WP Irr.	X
6/16/10	Kevin Caberto		Claims Note re: communication with defense counsel re: Wood & common interest agreement	AC WP Irr.	X
6/11/10	Kevin Caberto		Claims Note re: communication with defense counsel	AC WP Irr.	X

5/14/10	Mary Allinder		Claims Note re: communication with defense counsel, status re: identifying TCR entities	AC WP Irr.	X
4/28/10	Kevin Caberto		Claims Note re: defense of underlying action re: SwissRE (First Specialty)	WP Irr.	X
4/16/10	Kevin Caberto		Claims Note re: letter to First Specialty	WP Irr.	X
4/16/10	Kevin Caberto		Claims Note re: coverage analysis, discussion with defense counsel re: Wood tender	AC WP Irr.	X
3/17/10	Kevin Caberto		Claims Note re: defense strategy and defense of underlying action re: unified defense	AC WP Irr.	WP
3/15/10	Kevin Caberto		Claims Note re: defense of underlying action discussion with Andrew Motroni re: Kemper	AC WP Irr.	WP
3/5/10	Kevin Caberto		Claims Note re: defense of underlying action re: email to Kemper	WP Irr.	WP
3/1/10	Jose Vides		Claims Note re: billing report	AC WP Irr.	Irr.
2/25/10	Kevin Caberto		Claims Note re: communication with defense counsel re: AI/sub matrix	AC WP Irr.	X
2/24/10	Kevin Caberto		Claims Note re: communication with defense counsel re: Tripple J tender	AC WP Irr.	WP; Irr.
2/24/10	Kevin Caberto		Claims Note re: defense of underlying action re: tender to First Specialty	WP Irr.	X
2/24/10	Kevin Caberto		Claims Note re: communication with defense counsel re: Wood & separation agreement	AC WP Irr.	X
2/12/10	Kevin Caberto		Claims Note re: defense of underlying action re: Kemper	WP Irr.	WP; Irr.

2/8/10	Kevin Caberto		Claims Note re: communication with defense counsel re: initial report	AC WP Irr.	X
2/8/10	Kevin Caberto		Claims Note re: communication with defense counsel re: subcontractor correspondence	AC WP Irr.	X
2/8/10	Kevin Caberto		Claims Note re: communication with defense counsel re: letter to Travelers	AC WP Irr.	X
1/29/10	Kevin Caberto		Claims Note re: communication with defense counsel re: response to Plaintiff's motion to amend	AC WP Irr.	AC; WP
1/28/10	Mary Allinder		Claims Note re: claim handling, defense strategy re: reserves & proper parties	AC WP Irr.	X
1/6/10	Kevin Caberto		Claims Note re: defense of underlying action re: Tripple J.	AC WP Irr.	X
1/4/10	Kevin Caberto		Claims Note re: communication with defense counsel re: Zurich	AC WP Irr.	X
12/31/09	Kevin Caberto		Claims Note re: defense strategy re: SC statute of limitations	AC WP Irr.	X
12/28/09	Kevin Caberto		Claims Note re: defense strategy re: motion to dismiss	AC WP Irr.	X
12/18/09	Kevin Caberto		Claims Note re: communication with defense counsel re: tender letters	AC WP Irr.	X
12/14/09	Mary Allinder		Claims Note re: expense reserves approval	AC WP Irr.	WP; Irr.
12/11/09	Kevin Caberto		Claims Note re: communication with defense counsel re: report for carriers	AC WP Irr.	X
12/11/09	Kevin Caberto		Claims Note re: exposure analysis re: TOR allocations	AC WP Irr.	X

12/11/09	Kevin Caberto		Claims Note re: communication with defense counsel re: budget & reserves	AC WP Irr.	X
12/7/09	Kevin Caberto		Claims Note re: First Specialty tender letter	WP Irr.	X
12/7/09	Kevin Caberto		Claims Note re: plan of action re: conference call with Chartis rep., Travelers rep. & Cordes Ford	AC WP Irr.	X
11/18/09	Kevin Caberto		Claims Note re: communication with defense counsel; pre-tender defense costs; mental impressions	AC WP Irr.	AC; WP
11/11/09	Kevin Caberto		Claims Note re: documentation	WP Irr.	X
11/11/09	Kevin Caberto		Claims Note re: communication with defense counsel re: Old Republic info. & email from defense counsel	AC WP Irr.	X
11/11/09	Kevin Caberto		Claims Note re: communication with defense counsel & Kemper & Chartis	AC WP Irr.	X
11/4/09	Kevin Caberto		Claims Note re: coverage	AC WP Irr.	X
11/4/09	Kevin Caberto		Claims Note re: defense of underlying action re: defending TCR & other carriers	AC WP Irr.	X
10/30/09	Kevin Caberto		Claims Note re: money paid against aggregate	WP Irr.	Irr.
10/30/09	Kevin Caberto		Claims Note re: status of underlying action re: contact info. for other carriers	WP Irr.	X
10/30/09	Kevin Caberto		Claims Note re: new loss, coverage analysis and mental impressions re: other carries & their policies & identifying other issues & causes of action	WP Irr.	X
10/15/09	Angelica Espinoza-Herrera		Claims Note re: notice of new claim re: setting up the claim in file (3 notes)	WP Irr.	X

Volume No. 2 – Written Correspondence					
Date	Author	Recipient	Description	Privilege	Ruling
11/4/09	Kevin Caberto	Trammell Crow Scott Woodward	Draft coverage position letter	AC WP Irr.	X
8/16/10	John Catizone	Kevin Caberto	Coverage opinion including statement of facts, coverage question, other coverage considerations, funding & recommendations	AC WP Irr.	X
10/19/10	John Catizone; Brooke Panagakos	Kevin Caberto	Supplemental coverage opinion including insured's rights & trigger of coverage & allocation among multiple policies	AC WP Irr.	X
10/20/11	Cordes Ford, IV	Kevin Caberto; John Jacks; Scott Woodward	Case assessment/ Pre-Mediation report including a summary of the case to date, pertinent dates, synopsis of facts & law, liability analysis, planned motions, damages, etc.	AC WP Irr.	AC; WP
7/29/11	Cordes Ford, IV	Kevin Caberto; John Jacks; Hilary Schweitzer; Scott Woodward	Case assessment report (Draft)/ Litigation Report (with similar info. in pre-mediation report)	AC WP Irr.	AC; WP
7/30/11	Cordes Ford, IV	Kevin Caberto; John Jacks; Hilary Schweitzer; Scott Woodward	Case assessment report/ Litigation report	AC WP Irr.	AC; WP
3/6/12	Cordes Ford, IV	Kevin Caberto; John Jacks; Scott Woodward	Case assessment report	AC WP Irr.	AC; WP
4/25/12	Cordes Ford, IV	Kevin Caberto; John Jacks; Scott Woodward	Pre-trial report	AC WP Irr.	AC; WP

5/8/12	John Catizone	Darin Brooks, Esq.	Settlement Communication re: One Beacon's position on settlement	AC WP Irr. Privileged settlement communication (Note: Darin Brooks represents National Union, who is not a party to this action)	AC; WP
4/20/12	Cordes Ford	All Trammell Crow Carriers	case assessment for settlement purposes re: Plaintiff's demand	AC WP Irr. Confidential Settlement Communication	AC; WP
4/11/12	John Catizone	Kevin Caberto	Settlement analysis re: settlement agreement with other carriers	AC WP Irr.	WP

Volume 2, Part 2 – Written Correspondence

Date	Author/From	Recipient	Description	Privilege	Ruling
4/23/10	Cordes Ford	Andrew Motroni, Kevin Caberto, Rhenardo Worrell, Michael Bird, Scott Woodward	Case Status Report No. 2	AC WP Irr.	X
7/22/10	Cordes Ford	Andrew Motroni, Kevin Caberto, Rhenardo Worrell, Michael Bird, Scott Woodward	Case Status Report No. 3	AC WP Irr.	X
11/8/10	Cordes Ford	Andrew Motroni, Kevin Caberto, Rhenardo Worrell, Michael Bird, Scott Woodward	Case Status Report No. 4	AC WP Irr.	X
11/8/10	Kevin Caberto	Bruce Smith	Draft coverage position letter re: responding to tender letter from Wood	AC WP Irr.	X
2/8/11	Cordes Ford and Harrison Trammell	John Jacks, Kevin Caberto, Scott Woodward	Case Status Report No. 5, including memo re: visual site inspection	AC WP Irr.	X

4/10/12	Ernest Martin	John Catizone	Confidential Settlement Communication & response to Plaintiff's demand	Confidential Settlement Communication with party not a party to the instant action	WP
Volume No. 3 – Electronic Mail Correspondence					
Date	Author/From	Recipient	Description	Privilege	Ruling
11/20/12	Various OneBeacon employees	Various OneBeacon employees	Email string re: invoice payment	AC WP Irr.	Irr.
11/18/09	Kevin Caberto	Cordes Ford and Andrew Motroni	Email correspondence re: invoices & percentages to pay	AC WP Irr.	Irr.
11/11/09	Cordes Ford	Kevin Caberto	Email correspondence re: subcontractors	AC WP Irr.	AC; WP
11/4/09	Kevin Caberto	Cordes Ford	Email correspondence re: retention of defense counsel	AC WP Irr.	WP
11/11/09	Cordes Ford	Kevin Caberto	Email correspondence re: status & identifying defendant entities	AC WP Irr.	X
11/10/09	Andrew Motroni/ Cordes Ford/ Scott Woodward	Scott Woodward/ Cordes Ford/ Andrew Motroni	Email string re: underlying action	AC WP Irr.	AC; WP; Irr.
2/24/10	Cordes Ford	Andrew Motroni, Rhenardo Worrell, Michael Bird, Kevin Caberto, Scott Woodward	Email correspondence re: status of underlying action and plan of action & tender letter	AC WP Irr.	AC; WP; Irr.
2/25/10	Cordes Ford	Andrew Motroni, Rhenardo Worrell, Michael Bird, Kevin Caberto, Scott Woodward	Email correspondence re: status & tender letters	AC WP Irr.	AC; WP; Irr.
4/16/10	Cordes Ford	Kevin Caberto	Email correspondence re: status re: Wood tender letter	AC WP Irr.	X
1/6/10	Cordes Ford	Andrew Motroni, Rhenardo Worrell, Michael Bird, Kevin Caberto, Scott Woodward	Email correspondence re: status re: Tripple J. tender letter	AC WP Irr.	WP; Irr.

1/29/10	Cordes Ford	Andrew Motroni, Rhenardo Worrell, Michael Bird, Kevin Caberto, Scott Woodward	Email correspondence re: status, litigation plan re: Plaintiff's motion to amend	AC WP Irr.	AC; WP; Irr.
1/29/10	Cordes Ford	Andrew Motroni, Rhenardo Worrell, Michael Bird, Kevin Caberto, Scott Woodward	Email correspondence re: status report re: initial report	AC WP Irr.	AC; WP; Irr.
2/9/10	Cordes Ford	Andrew Motroni, Rhenardo Worrell, Michael Bird, Kevin Caberto, Scott Woodward	Email correspondence re: status re: separation agreement & Wood's tender	AC WP Irr.	X
6/24/10	Kevin Caberto	Andrew Motroni, Rhenardo Worrell, Kevin Curry, Michael Bird, tee@teelaw.com	Email correspondence re: defense of underlying action & other carriers	WP Irr.	AC; WP; Irr.
8/9/10	Cordes Ford	Andrew Motroni, Rhenardo Worrell, Michael Bird, Kevin Caberto, Scott Woodward	Email correspondence re: status re: TCR & Wood alleged agreement	AC WP Irr.	X
9/2/10	Kevin Caberto	Andrew Motroni, Rhenardo Worrell, Kevin Curry, Michael Bird, Denise Gibson, tee@teelaw.com	Email correspondence re: defense of underlying action & coverage by other carriers	AC WP Irr.	WP
10/18/10	Paul Hurley	Kevin Caberto	Email correspondence re: claim file notations re: reinsurance notice	WP Irr.	X
12/6/10 – 12/17/10	Kevin Caberto / Cordes Ford / Cliff Watson	Cordes Ford / John Jacks / Andrew Motroni, Cliff Watson / Dianne Bryson	Email string re: defense costs re: payment split by carriers	AC WP Irr.	WP; Irr.
12/22/10	Cordes Ford	John Jacks, Kevin Caberto, Scott Woodward	Email correspondence re: status & scheduling orders	AC WP Irr.	AC; WP; Irr.
3/16/11	Brooke Panagakos	Kevin Caberto	Email correspondence re: coverage status	AC WP Irr.	WP; Irr.
7/8/11	Elizabeth Shawkey	Kevin Caberto, Melanie Chapman	Email correspondence re: status	AC WP Irr.	WP; Irr.
7/13/11	Elizabeth Shawkey	Kevin Caberto, Melanie Chapman	Email correspondence re: status	AC WP Irr.	WP; Irr.
11/21/11	Cordes Ford	Kevin Caberto, John Jacks, Scott Woodward	Email correspondence re: status report re: repair & damages estimate	AC WP Irr.	AC; WP; Irr.

1/30/12	Cordes Ford	Kevin Caberto, John Jacks, Scott Woodward	Email correspondence re: case assessment re: update where case presently stands, motions & objections	AC WP Irr.	AC; WP; Irr.
2/9/12 – 2/16/12	John Catizone/ Anthony Riggio	Kevin Caberto, John Jacks, John Catizone	Email correspondence re: settlement negotiations & settlement offer	AC WP Irr.	WP; Irr.
2/13/12	Cordes Ford	John Jacks, Kevin Caberto, Scott Woodward	Email correspondence re: status update re: pending motions & rulings	AC WP Irr.	AC; WP; Irr.
3/4/12	John Catizone	Ernest Martin	Email correspondence re: settlement discussions	Confidential settlement discussions with party not involved in instant litigation; Irr.	WP; Irr.
2/1/11	Harrison Trammell	Kevin Caberto, Scott Woodward, John Jacks	Email correspondence re: status re: budget & lab. testing	AC WP Irr.	AC; WP; Irr.
5/7/12	John Catizone	Kevin Caberto	Email correspondence re: recommendations re: indemnification & other carriers	AC WP Irr.	WP; Irr.
2/1/11	Harrison Trammell / Cordes Ford ; Kevin Caberto / John Jacks	Kevin Caberto / Harrison Trammell / Cordes Ford / John Jacks	Email string re: status, litigation strategy re: Plaintiff's expert report	AC WP Irr.	AC; WP; Irr.
3/15/10 – 3/17/10	Kevin Caberto/ Andrew Motroni / Cordes Ford	Andrew Motroni / Cordes Ford / Kevin Caberto	Email string re: defense of underlying action re: coverage dispute & payment of each carrier's share	AC WP Irr.	X
3/16/10 – 3/17/10	Kevin Caberto/ Andrew Motroni / Cordes Ford / Michael Bird	Andrew Motroni / Cordes Ford / Kevin Caberto / Michael Bird / Rhenardo Worrell / Scott Woodward	Email string re: defense of underlying action & agreement to defend	AC WP Irr.	WP; Irr.

4/10/12 – 4/11/12	John Catizone / Ernest Martin	John Catizone / Ernest Martin	Email string re: settlement discussions and analysis re: TCR crossclaims & subcontractors, etc.	Irr. Settlement discussions with party not involved in instant litigation	WP; Irr.
4/10/12	John Catizone / Ernest Martin	John Catizone/ Ernest Martin / Kevin Caberto	Email string re: strategy; settlement discussions re: settlement demand & other issues	AC WP Irr. Settlement discussions with party not involved in instant litigation	WP; Irr.
9/13/10 – 9/17/10	Ernest Martin / Carrier representatives	Ernest Martin / Carrier representatives	Email string re: payment of defense costs	WP Irr. Discussion s concerning party not involved in instant litigation	WP; Irr.
10/25/11	Ernest Martin / Carrier Representatives	Carrier Representatives/ Ernest Martin	Email string re: defense obligations to TCR, list of carrier representatives, & coverage charts	WP Irr. Discussion s concerning party not involved in instant litigation	WP; Irr.
5/11/12 – 5/13/12	Cordes Ford / John Catizone / Ernest Martin /	Kevin Caberto / Ernest Martin / John Jacks / Hamp Moody / Scott Woodward / Micah Skidmore / John Catizone / Darin Brooks /	Email string re: settlement discussions & contingency	AC WP Irr. Discussion s concerning party not involved in instant litigation	AC; WP; Irr.
7/13/11	Elizabeth Shawkey	Kevin Caberto	Email correspondence re: joint litigation interest, confidentiality & tolling agreement between TCR entities	AC WP Irr.	AC; WP; Irr.
7/14/11	Elizabeth Shawkey	Kevin Caberto	Email correspondence	AC WP Irr.	WP; Irr.

10/13/11 – 10/26/11	Ernest Martin/ Cordes Ford	Carrier representatives	Email correspondence re: filing of suit in Texas & carrier representatives info.	Irr. Discussion s concerning party not involved in instant litigation	AC; WP; Irr.
9/13/10 – 9/14/10	Scott Woodward / Rhenardo Worrell Cordes Ford /Kevin Caberto	Rhenardo Worrell; Allen Gibson, Andrew Motroni, Kevin Caberto, Michael Bird, Cordes Ford	Email string re: defense of underlying litigation & joint defense with other carriers	WP Irr. Discussion s concerning party not involved in instant litigation	AC; WP; Irr.
9/13/10 – 9/16/10	Michael Bird / Rhenardo Worrell Cordes Ford /Kevin Caberto	Rhenardo Worrell; Allen Gibson, Andrew Motroni, Kevin Caberto, Micahel Bird, Cordes Ford / Scott Woodward/ Cliff Watson	Email string re: defense of underlying litigation & joint defense with other carriers	WP Irr. Discussion s concerning party not involved in instant litigation	AC; WP; Irr.
5/11/12 – 5/13/12	Cordes Ford	Carrier representatives and attorneys	Email string re: settlement negotiations re: new settlement demand	WP AC Irr. Confidentia l settlement discussions concerning party not involved in instant litigation	AC; WP; Irr.
5/13/12	Cordes Ford / Jesse Kirchner	Cordes Ford/ Carrier representatives and attorneys	Email string re: settlement negotiations with Plaintiff	WP AC Irr. Confidentia l settlement discussions concerning party not involved in instant litigation	AC; WP; Irr.

10/13/11 - 10/27/11	Ernest Martin / Carrier representatives	Carrier representatives / Ernest Martin	Email correspondence re: defense of underlying litigation and filing of suit in Texas	Irr. Discussion s concerning party not involved in instant litigation	WP; Irr.
4/20/12	John Catizone / Darin Brooks	Kevin Caberto / Hamp Moody / John Catizone	Email string re: settlement communications	AC WP Irr. Confidentia l settlement discussions concerning party not involved in instant litigation	WP; Irr.
4/20/12	Debbie Lazo	Scott Woodward, Barbara Davis, Rhenardo Worrell, Kevin Curry, Keith Taylor, P. Coombs, Robert Koons, John Jacks, Kevin Caberto	Email correspondence re: status	AC WP Irr.	WP; Irr.
5/9/12	Robert Koons	John Jacks, Kevin Caberto, John Catizone, Chris Tramonte, Rhenardo Worrell, P. Coombs, Kevin Curry, Keith Taylor	Email correspondence re: settlement of underlying action re: settlement demand	Irr. Confidentia l settlement discussions concerning party not involved in instant litigation	WP; Irr.
5/9/12	John Catizone	Robert Koons	Email correspondence re: settlement status re: coverage position	Irr. Confidentia l settlement discussions concerning party not involved in instant litigation	WP; Irr.

5/9/12 – 5/11/12	Cordes Ford / Darin Brooks / John Catizone / Ernest Martin / Jesse Kirchner /	Cordes Ford / Darin Brooks / John Catizone / Ernest Martin / Jesse Kirchner / John Jacks ; Keith Taylor / Kevin Caberto / Les Pickett / Dana Minissale / Chris Tramonte / M. Beaman / Robert Koons/ J. Siessel	Email string re: settlement discussions re: latest settlement offer	Irr. Confidential settlement discussions concerning party not involved in instant litigation	AC; WP; Irr.
5/9/12 – 5/11/12	Cordes Ford / Darin Brooks / John Catizone / Ernest Martin / Jesse Kirchner /	Cordes Ford / Darin Brooks / John Catizone / Ernest Martin / Jesse Kirchner / John Jacks ; Keith Taylor / Kevin Caberto / Les Pickett / Dana Minissale / Chris Tramonte / M. Beaman / Robert Koons/ J. Siessel	Email string re: settlement discussions re: settlement offer & Plaintiff's response	Irr. Confidential settlement discussions concerning party not involved in instant litigation	AC; WP; Irr.
2/8/10	Debbie Lazo	Scott Woodward, Andrew Motroni, Kevin Caberto, Rhenardo Worrell, Michael Brid, Peter D'Allesio	Email correspondence re: status re: letter to Tripple J.	AC WP Irr.	WP; Irr.
2/8/10	Debbie Lazo	Scott Woodward, Andrew Motroni, Kevin Caberto, Rhenardo Worrell, Michael Brid, Peter D'allesio	Email correspondence re: status re: tender letters to subcontractors	AC WP Irr.	WP; Irr.
11/9/09	Cordes Ford	Kevin Caberto, Andrew Motroni	Email correspondence re: status re: payment of TCR defense	AC WP Irr.	WP; Irr.
11/23/09 - 12/2/09	Cordes Ford / Andrew Motroni / Michael Bird	Michael Bird, Andrew Motroni, Rhenardo Worrell, Kevin Caberto	Email correspondence re: status, evaluation re: summary of conference call & plan of action & list of named defendants	AC WP Irr.	X
11/11/09	Cordes Ford	Scott Woodward, Andrew Motroin, Kevin Caberto Denise Gibson, P. coombs, Allen Gibson	Email correspondence re: status re: new companion suit	AC WP Irr.	AC; WP; Irr.

11/23/09	Andrew Motroni / Micahel Bird	Cordes Ford / Andrew Motroni, Kevin Caberto, Rhenardo Worrell, Michael Bird	Email correspondence re: status, evaluation re: other carriers & list of defendants	AC WP Irr.	X
11/27/09	Cordes Ford	Andrew Motroni, Kevin Caberto, Rhenardo Worrell, Micahel Bird	Email correspondence re: status re: affidavits of service	AC WP Irr.	AC; WP; Irr.
11/11/09	Andrew Motroni / P. Coombs	Kevin Caberto / Andrew Motroni	Email correspondence re: Old Republic policy & coverage	AC WP Irr. Internal communications	WP; Irr.
10/14/09	Jessica Jordan	Angelica Espinoz-Herre	Initial Coverage Communication		X
Volume No. 4 – Misc. Documents From Claims File					
Date	Author	Recipient	Description	Privilege	Ruling
7/14/11	Watkins Services, Inc	unknown	Underlying defense expert report re: breakdown of each building & cost	WP Irr.	WP; Irr.
unknown	unknown	unknown	Case assessment and post-mediation evaluation	AC WP Irr.	AC; WP; Irr.
10/14/09	OneBeacon Insurance Group		PMS Inquiry Report	WP Irr. Confidential; Proprietary	WP; Irr.
2/17/11	Harrison Trammell	File	Deposition summary and analysis re: Keith Suggs	AC WP Irr.	AC; WP; Irr.
2/24/11	Harrison Trammell	File	List of Subcontractors	AC WP Irr.	AC; WP; Irr.
2/9/11	Harrison Trammell	File	Deposition summary and analysis re: Nava & Guzman Construction 39(b)(6) rep	AC WP Irr.	AC; WP; Irr.
12/7/09	Harrison Trammell	Cordes Ford, IV	Memorandum re: case strategy & legal theories	AC WP Irr.	AC; WP; Irr.
12/14/10	Harrison Trammell	File	Deposition summary and analysis re: Roger Crawford	AC WP Irr.	X
8/11/11	Kevin Caberto	Anthony Riggio (internal communication)	Claim evaluation – insured, loss facts, litigation, liability evaluation, damage evaluation, claim status & strategy, & reserve history	AC WP Irr. Confidential Proprietary	WP; Irr.
2/21/12	Kevin Caberto	Anthony Riggio (internal communication)	Claim evaluation	AC WP Irr. Confidential Proprietary	WP; Irr.
unknown	unknown	unknown	Status of underlying action re: list of motions & rulings	AC WP Irr.	WP; Irr.

7/25/10	Kevin Caberto	internal communication	Draft claim advisory re: description of risk, injuries & damages, claim status & strategy	AC WP Irr.	X
1/26/09	Mark Gothold	OneBeacon internal communication	Claim advisory	AC WP Irr.	WP; Irr.
9/22/10	Kevin Caberto	OneBeacon internal communication	Claim advisory	AC WP Irr.	WP; Irr.
July 10	Kevin Caberto		various claims notes marked as "deleted"	AC WP Irr.	WP; Irr.
undated			Draft, unsigned Joint litigation interest, confidentiality and tolling agreement	WP Irr.	WP; Irr.

Volume No. 4, Part 2 – Misc. Documents From Claims File

Date	Author	Recipient	Description	Privilege	Ruling
10/13/09	Elizabeth McManus		Claim Summary	WP Irr. Proprietary Information	Irr.
10/13/09	unknown		New Claim Registration	WP Irr. Proprietary Information	Irr.
			Claim Search results	WP Irr.	Irr.
6/3/11	Joseph Schmitt	Kevin Caberto, Mary Jane Allinder, Karen Rice, Anthony Riggio	Litigation Hold Notice re: instructing to preserve records	WP Irr. Internal Communication re: Texas action	Irr.

Volume No. 5 – Billing Invoices

Withheld as protected pursuant to the AC privilege, WP doctrine and on the grounds that they are Irr. to the instant action

X

APPENDIX II. St. Paul Fire and Marine Insurance Company

Tab 1 Claim File 3217						
A – Correspondence Folder						
Tab	Date	Author/From	Recipient	Description	Privilege	Ruling
A1	11/9/10			Construction Defect new file assignment request		X
A2	11/9/10			Claim Summary		X
A3	5/11/11-5/12/11	Randal Kempka, Micah Skidmore	Randal Kempka, Micah Skidmore, Fawn Vasquez, Andrew Motroni	Re: request that Skidmore provide service contract/agreement between Haynes & Boone LLP and TCR	Page 4 – handwritten notes WP	X
A4	5/27/10-5/28/10	Cordes Ford, Randal Kempka	Cordes Ford, Randal Kempka	Re: letter to attorney Sheppard and Wood AI issue, provides contact info. for TCR's risk manager, Scott Woodward		X
B – TCR Policy Information						
Tab	Date	Author/From	Recipient	Description	Privilege	Ruling
B1				Account info. & policy info. for TCR – quote/policy list	Irr., ongoing TX litigation	X
C – Coverage Folder						
Tab	Date	Author/From	Recipient	Description	Privilege	Ruling
C1	11/9/10			Claim summary, claimant info. & summary of property damage for Joshua Schaap et al. & Southampton Pointe POA	Irr.	X
C2				Policy documents, declaration pages, account info., & policy period info. for TCR, lists liability covered by policy & named insured endorsement	Irr.	X
C3	11/8/10-11/9/10	Fawn Vasquez, Andrew Motroni, Cordes Ford	Fawn Vasquez, Randal Kempka, Andrew Motroni, Cordes Ford	Email re: Wood's claim & verbal agreement with TCR after separation agreement		X
D – Claim Notes						
Tab	Date	Author/From	Recipient	Description	Privilege	Ruling
D	11/9/10-9/23/11	Fawn Vasquez, Randal Kempka		Re: conversations with attorneys & facts of TCR claim & separation agreement	AC	X
Tab 2 Claim File 3148						

A – Letter Correspondence						
Tab	Date	Author/From	Recipient	Description	Privilege	Ruling
A1	7/7/09	Andrew Motroni	Scott Woodward	Re: receipt of TCR claim & copies of documents required for investigation & assessment of claim requested, etc.	Irr.	X
A2	10/20/11	Cordes Ford	Scott Woodward, John Jacks, Kevin Caberto	Pre-mediation report summarizing cases, listing pertinent dates, summary of facts & law, liability charts, settlement estimate, contribution of parties, parties/witness testimony, etc.		AC; WP; Irr.
A3	7/30/11	Cordes Ford	John Jacks, Kevin Caberto, Hilary Schweitzer, Scott Woodward	Construction defect litigation report		AC; WP; Irr.
A4	4/25/12	Cordes Ford	Scott Woodward, John Jacks, Kevin Caberto	Pre-trial report		AC; WP; Irr.
A5	5/20/12	Cordes Ford	Scott Woodward, Keith Taylor, Barbara Davis, Robert Koons, Rhenardo Worrell, John Jacks, Kevin Curry, Kevin Caberto, Paolo Coombs	Re: Plaintiff's demand & legal support for "as is" argument, expected verdict, settlement value calculation		AC; WP; Irr.
A6	3/6/12	Cordes Ford	Scott Woodward, John Jacks, Kevin Caberto	Case assessment report No. 7, synopsis of facts & law, liability analysis, recommended strategy, witness testimony, etc.		AC; WP; Irr.
B – Email Correspondence						
Tab	Date	Author/From	Recipient	Description	Privilege	Ruling
B1	11/23/09-12/2/09	Cordes Ford, Michael Bird, Andrew Motroni	Cordes Ford, Michael Bird, Kevin Caberto, Rhenardo Worrell, Andrew Motroni	Re: what must be determined in the case, budget, planning conference call, Plaintiff's amended complaint	Irr.	X

B2	11/4/09-12/2/09	Cordes Ford, Andrew Motroni, Scott Woodward	Cordes Ford, Andrew Motroni, Scott Woodward, Kevin Caberto, et al.	Re: named & probable future defendants & relationships, calls to One Beacon & Old Republic/ Virginia Surety	Irr.	X
B3	9/24/09-10/13/09	Andrew Motroni, Scott Woodward	Andrew Motroni, Scott Woodward	Re: TCR entities, handwritten phone numbers on email	Irr.	WP; Irr.
B4		Cordes Ford, Andrew Motroni	Cordes Ford, Andrew Motroni	Re: tender letters	Irr.	Irr.
B5	4/13/10	Cordes Ford,	Scott Woodward, Andrew Motroni, et al.	Re: tender letters from Wood to TCR	Only to email (not letter referenced)	X
B6	8/2/10-8/9/10	Cordes Ford,	Cordes Ford, Kevin Caberto, Rhenardo Worrell, Michael Bird, Andrew Motroni, Scott Woodward	Re: third tender letter of Wood's defense to TCR	Only to email (not letter referenced)	X
B7	6/24/10-9/3/10	Rhenardo Worrell, Kevin Caberto	Rhenardo Worrell, Kevin Caberto, Andrew Motroni, Cordes Ford, Kevin Curry, Michael Bird	Re: Old Republic & 4 carriers currently defending & defense allocation	Irr.	Irr.
B8	9/22/10-9/27/10	John Jacks, Andrew Motroni, Kevin Caberto	John Jacks, Andrew Motroni, John Huckenpoehler, et al.	Re: sharing defense & coverage counsel with co-carrier	Irr.	Irr.
B9	9/16/10	Andrew Motroni, Kevin Caberto, Ernest Martin	Andrew Motroni, John Jacks, John Huckenpoehler, Ernest Martin, Kevin Curry, Rhenardo Worrell, Scott Woodward, Noah Nadler, Michael Bird	Re: One Beacon sharing defense of TCR	Only to internal communications at 6:42pm	Irr.

B 10	9/13/10-9/16/10	Andrew Motroni, Kevin Caberto, Cordes Ford	Andrew Motroni, Kevin Caberto, Michael Bird, Cordes Ford, Rhenardo Worrell, Scott Woodward	Re: agreement of defense allocation	Irr.	Irr.
B 11	7/6/10-9/24/10	Cordes Ford, Kevin Caberto	Cordes Ford, Andrew Motroni, Kevin Caberto, Sharon Kohler	Re: One Beacon's share of bills	Irr.	Irr.
B 12	11/8/10	Andrew Motroni	Cordes Ford, Kevin Caberto	Re: additional insured tenders	Irr.	Irr.
B 13	12/21/10	Cordes Ford	John Jacks, Randal Kempka	Re: Roger Crawford (sub-subcontractor) deposition summary		X
B 14	12/14/10	Randal Kempka	John Jacks	Re: TCR & Wood agreement (with attached memo)		X
B 15	11/22/10-11/30/10	Rodita Calingo, Daniel Creager	John Jacks, Daniel Creager, Rodita Calingo, Andrew Motroni,	Re: SC case assigned to John Jacks	Irr.	X
B 16	2/1/11	Andrew Motroni,	Andrew Motroni, Kevin Caberto, Cordes Ford, Fawn Vasquez	Re: case assigned to John Jacks	Irr.	X
B 17	2/1/11	Harrison Trammell	Kevin Caberto, Cordes Ford, et al.	Re: preliminary budget estimate (with attached memo)	Irr.	WP; Irr.
B 18	1/27/11	Cordes Ford	John Jacks, Kevin Caberto, Scott Woodward	Re: expert witness, discovery, & strategy	Irr.	WP; Irr.
B 19	4/13/11	John Jacks	Cordes Ford, Harrison Trammell, Kevin Caberto, Andrew Motroni	Re: splitting payment of expenses	Irr.	Irr.
B 20	4/13/11	John Jacks	Cordes Ford, Harrison Trammell, Kevin Caberto	Re: payment of expert invoice	Irr.	Irr.
B 21	5/6/11	Harrison Trammell	John Jacks, Kevin Caberto, Cordes Ford	Re: insurance and risk transfer issues (with attached memo)	Irr.	WP; Irr.
B 22	4/4/12	Cordes Ford	Kevin Caberto, John Jacks,	Re: recent SC case & statute	Irr.	AC; Irr.
B 23	11/28/11	Cordes Ford	Cliff Watson, John Jacks	Re: St. Paul's payments of split invoices	Irr.	Irr.

B 24	2/23/11- 3/17/11	Kevin Caberto, Andrew Motroni	Kevin Caberto, Andrew Motroni, Cordes Ford	Re: TCR's paying share for other carriers	Irr.	X
C – Policy Information						
Tab	Date	Author/From	Recipient	Description	Privilege	Ruling
C1	7/9/09			Claim acknowledgement form	Irr.	Irr.
C2	7/7/09			Construction defect new assignment request re: St. Paul's obligation to defend	Irr.	X
C3	9/3/10			Coverage/legal referral to John Huckenpoehler re: issue summary	Irr.	WP; Irr.
C4	unknown			Coverage chart with years, coverage amounts, & carriers	Irr.	Irr.
D – Coverage/Litigation Memoranda						
Tab	Date	Author/From	Recipient	Description	Privilege	Ruling
D1	12/7/09	Harrison Trammell	Cordes Ford	Re: motion to dismiss recommendation	Irr.	AC
D2	12/10/09			Litigation budget	Irr.	Irr.
D3	1/29/10	Cordes Ford	Andrew Motroni, Kevin Caberto, Rhenardo Worrell, Michael Bird, Scott Woodward	Re: parties, liability, damages, etc.	Irr.	AC
D4	Unknown			Tender letters chart re: various agencies and their agents	Irr.	Irr.
D5	7/22/10	Cordes Ford, Harrison Trammell	Scott Woodward, Michael Bird, Andrew Motroni, Kevin Caberto, Rhenardo Worrell	Case Status Report No. 3 re: update of case, issues, parties	Irr.	AC; WP; Irr.
D6	11/8/10	Cordes Ford, Harrison Trammell	Andrew Motroni, Kevin Caberto, Scott Woodward	Case Status Report No. 4	Irr.	AC; WP; Irr.
D7	11/17/10			MCU referral consultation with John Jacks re: description of claim, damages, & recommendation	Irr.	X
D8	1/27/11	Harrison Trammell		Memo re: conference call b/w defense counsel	Irr.	AC; WP; Irr.
D9	2/8/11	Cordes Ford, Harrison Trammell	John Jacks, Kevin Caberto, Scott Woodward	Case Status Report No. 5	Irr.	AC; WP; Irr.
D 10	2/17/11	Harrison Trammell		Memo re: deposition of Keith Suggs	Irr.	Irr.

D 11	2/9/11	Harrison Trammell		Memo re: deposition of Nava & Guzman Construction, Inc.	Irr.	Irr.
D 12	Unknown			Total defect litigation reports re: January litigation reports	Irr.	Irr.
D 13	2/24/11	Harrison Trammell		Memo re: subcontractors at Southampton Pointe re: speculated liability percentages	Irr.	Irr.
D 14	7/14/11	Watkins Services, Inc.		Estimate for each building & description of work	Irr.	Irr.
D 15	Unknown			Handwritten notes listing names/phone numbers	Irr.	X
D 16	Unknown		Cordes Ford, Kevin Caberto, Andrew Motroni, Michael Bird, et al.	Re: TCR/Wood common interest agreement	Irr.	Irr.
D17	5/19/10	Cordes Ford	Kevin Caberto, Andrew Motroni	Re: TCR/Wood common interest agreement		AC

E – Legal Invoices & Communications re: the same

Tab	Date	Author/From	Recipient	Description	Privilege	Ruling
E				Legal invoices & communications re: the same – re: payments, hours, & invoices (some handwritten notes)	Irr.	X

F – Claim Notes (7/709-9/18/12)

Pg	Date	Author/From	Recipient	Description	Privilege	Ruling
1-5				<u>NOT PRODUCED</u>	Not discoverable because entered after <i>this</i> suit	Irr.
6	9/18/12	John Jacks		Re: resolution plan	WP	WP; Irr.
6	7/6/12	Darin Cheney		Re: settling defense costs	WP	WP; Irr.
7	6/29/12	Daniel Creager		Re: liability/evaluation, expense estimate increase	WP	WP; Irr.
7	6/15/12	Darin Cheney		Re: conference call with John Jacks, Darin Cheney, Dan Creager, Hamp Moody, & Alicia Barton discussing defense costs & authorized settlement amount	WP; AC	WP; Irr.
8	5/17/12 2:54pm	John Jacks		Re: claim resolution & breakdown of payments	WP	WP; Irr.
8	5/17/12 9:07am	John Jacks		Re: resolution plan & final settlement	WP	WP; Irr.

9	5/14/12 4:41pm	Daniel Creager		Re: liability/evaluation & analysis of indemnity increase & settlement authorization	WP	WP; Irr.
10	4/12/12 10:43am	John Jacks		Re: coverage, demand letter, & One Beacon policy	WP; AC	WP; Irr.
11	4/12/12 10:36am	John Jacks		Re: coverage & National Union policies	WP	WP; Irr.
12	4/12/12 10:28am	John Jacks		Re: confirming One Beacon received similar demand letter	WP	WP; Irr.
12	4/12/12 10:27am	John Jacks		Re: TCR's demand letter & coverage counsel Moody's recommendation	WP	WP; Irr.
13	4/12/12 10:17am	John Jacks		Re: resolution plan, One Beacon, & Plaintiff's settlement demand	WP	WP; Irr.
14	4/12/12 9:56am	John Jacks		Re: update on litigation, One Beacon, & policy limits	WP; AC	WP; Irr.
15	4/12/12 9:55am	John Jacks		Re: resolution plan & ongoing discussions with One Beacon	WP	WP; Irr.
15	1/10/12	John Jacks		Re: TX Supreme Court case & issues relating to that case	WP	WP; Irr.
16	1/10/12 2:16pm	John Jacks		Re: current scheduling order calls for discovery	WP	WP; Irr.
16	1/10/12 1:37pm	John Jacks		Re: coverage & conference call with claim legal rep. Alicia Barton	WP; AC	WP; Irr.
17	1/4/12	John Jacks		Re: resolution plan & conference call b/w inside reps, carriers, etc. discussing mediator's conversations with parties	WP; Irr.	WP; Irr.
17	1/3/12	John Jacks		Re: resolution plan & 3 way negotiation with TCR & Tripple J.	WP; Irr.	WP; Irr.
17	12/29/11	John Jacks		Re: coverage & legal counsel Alicia Barton discussing coverage issues & St. Paul's position	WP; AC	WP; Irr.

18	12/29/11	John Jacks		Re: resolution plan & discussing with defense counsel following offer to Plaintiffs & their counter-demand	WP; the note further states that Wood is attempting to assign its claim for defense costs against the insurance carriers to the Plaintiff	WP; Irr.
18	12/20/11	Darin Cheney		Re: legal bills & amounts	Irr.	WP; Irr.
18	12/5/11	John Jacks		Re: resolution plan & conference call with defense counsel & policyholder reps	WP; AC; Irr.	WP; Irr.
18-21	12/1/11	John Jacks		Re: resolution plan & mediation, Plaintiff's demand to TCR	WP; Irr.	WP; Irr.
21	11/22/11 3:19pm	John Jacks		Re: coverage & conference call with claim legal counsel Alicia Barton & outside coverage counsel Hamp Moody	WP; AC	WP; Irr.
21	11/22/11 1:54pm	John Jacks		Re: resolution plan & case mediation	WP	WP; Irr.
22	11/7/11	John Jacks		Re: resolution plan & mediation date, Plaintiff's claims	WP, Irr.	WP; Irr.
22	10/28/11	John Jacks		Re: coverage of policyholder & conference call	WP, Irr.	WP; Irr.
23	9/1/11	John Jacks		Re: discussion with complex case manager Nick D'Agostino	WP	X
23	8/8/11	John Jacks		Re: coverage, Scott Woodward re: Wood's other policies	WP	X
23	8/2/11	John Jacks		Re: litigation update	WP	X
24	6/29/11	John Jacks		Re: investigation & discussion with defense counsel	WP; AC	WP; Irr.
24	5/16/11	Darin Cheney		Re: financial approved payment for professional services	Irr.	WP; Irr.
25	4/15/11	John Jacks		Re: investigation & conference call with defense attorneys re: damages investigation schedule	WP; AC; Irr.	WP; Irr.

25	4/13/11	John Jacks		Re: coverage & listing responses received from other carriers	WP; Irr.	WP; Irr.
25	4/12/11	John Jacks		Re: damages/verification & defense attorneys & defense experts meeting	WP; Irr.	WP; Irr.
26	4/10/11	John Jacks		Re: litigation & contract b/w developer, Plaintiff, & "as is" clause	WP; AC; Irr.	WP; Irr.
26	3/11/11	John Jacks		Re: litigation & court granting motion to dismiss unfair trade practices claim	WP; Irr.	WP; Irr.
26	3/7/11	John Jacks		Re: coverage & One Beacon sharing defense costs	WP; Irr.	WP; Irr.
27	3/7/11	John Jacks		Re: liability/ evaluation & conference call with defense counsel, co-carrier adjuster, & policyholder rep	WP; AC; Irr.	WP; Irr.
27	1/4/11	John Jacks		Re: claim being transferred for further handling & payment of defense counsel & scheduling order	WP; AC	WP; Irr.
28	11/9/10	Andrew Motroni		Re: contacting counsel about exposure	WP; Irr.	WP; Irr.
28	11/17/10	Anderw Motroni		Re: correspondence & MCU referral to John Jacks	WP	WP; Irr.
28	11/19/10	Laura Albertson		Re: management review & referral	WP; AC	WP; Irr.
29	11/8/10 3:57pm	Andrew Motroni		Re: litigation & the master deed of Southampton Pointe	WP; Irr.	WP; Irr.
29	11/8/10 3:57pm	Andrew Motroni		Re: damages/verification & anticipated actions by Plaintiff	WP; Irr.	WP; Irr.
29	11/8/10 3:51pm	Andrew Motroni		Re: coverage & risk transfer & cross-claims	WP; Irr.	X
30	11/8/10 3:48pm	Andrew Motroni		Re: litigation & Wood's third-party claims	WP	X
30	11/8/10 3:25pm	Andrew Motroni		Re: litigation updated plan	WP	X
30	11/8/10 3:12pm	Andrew Motroni		Re: coverage & case status update	WP; AC	WP; Irr.
31	9/17/10	Andrew Motroni		Re: coverage & call to Kevin Caberto at One Beacon	WP; relevance	WP; Irr.
31	9/9/10 3:14pm	Andrew Motroni		Re: coverage & email from coverage attorney Ernest Martin	WP	WP; Irr.
31	9/9/10 3:04pm	Andrew Motroni		Re: coverage & CLG referral & MCU meeting	WP; AC	WP; Irr.
31	9/9/10 2:08pm	Andrew Motroni		Re: damages/verification & discussion with Kevin Caberto re: bills & list of carriers	WP	WP; Irr.

32	9/9/10 1:55pm	Andrew Motroni		Re: call from attorney Ernest Martin, coverage counsel for TCR, concerning payment of bills	WP; Irr.; note refers to issues raised in TX litigation	WP; Irr.
32	9/9/10	Andrew Motroni		Notes correspondence with John Huckenpoepler	AC	WP; Irr.
33-35	9/9/10	Andrew Motroni		Re: litigation & stipulation of dismissal	WP; Irr.	X
35	9/9/10 11:09am	Andrew Motroni		Re: resolution plan & statement by Plaintiff's counsel	WP; Irr.	WP; Irr.
35	9/9/10 11:06am	Andrew Motroni		Re: liability/evaluation & exposure issues	WP; Irr.	WP; Irr.
35	9/9/10 11:05am	Andrew Motroni		Re: litigation & legal/factual issues & understanding	WP; Irr.; note references 1/25/10 Wood tender of defense which was denied by St. Paul	X
38	9/9/10	Andrew Motroni		Re: litigation & list of potential witnesses	WP; Irr.	WP; Irr.
39	9/9/10	Andrew Motroni		Re: damages/verification & anticipated damages	WP; Irr.	WP; Irr.
40	9/9/10 10:52am	Andrew Motroni		Re: litigation & risk transfer, tender letters served, & additional potential coverage	WP; Irr.	WP; Irr.
40	9/9/10 10:50am	Andrew Motroni		Re: liability/evaluation & list of potential issues developed through discovery	WP; Irr.	X
40-42	9/9/10 10:47am	Andrew Motroni		Re: correspondence report from defense counsel	WP	WP; Irr.
43	9/3/10	Andrew Motroni		Re: coverage & efforts being made to Kevin Caberto with One Beacon re: legal expenses	WP; Irr.	WP; Irr.
43	8/30/10	Andrew Motroni		Re: coverage & conversation with Paul Coombs, Old Republic management	WP; Irr.	WP; Irr.
43	8/20/10	Andrew Motroni		Re: contact/call from coverage counsel for the policyholder re: expenses	WP; Irr.	WP; Irr.
43	7/27/10	Andrew Motroni		Re: litigation & where to rely upon for updates	WP; AC	WP; Irr.
43	7/2/10	Andrew Motroni		Re: reserve for loss relating to size/complexity of case	WP; Irr.	WP; Irr.

43	6/24/10	Andrew Motroni		Re: correspondence with defense counsel re: appearance in declaratory judgment action	WP; AC; Irr.	WP; Irr.
44	6/9/10	Andrew Motroni		Re: litigation & common interest agreement	WP	X
44	5/10/10	Andrew Motroni		Re: litigation & setting forth the updated litigation plan	WP; Irr.	WP; Irr.
45	5/10/10 3:56pm	Andrew Motroni		Re: litigation & stipulation for dismissal	WP; Irr.	WP; Irr.
45	5/10/10 3:54pm	Andrew Motroni		Re: litigation & Wood's tender of defense to TCR	WP; note reference the Wood tender on 1/25/10	X
45	5/10/10 3:53pm	Andrew Motroni		Re: liability/evaluation & determination needed	WP	WP; Irr.
45	5/10/10 3:52pm	Andrew Motroni		Re: litigation & an update to litigation plan	WP; Irr.	WP; Irr.
45	3/16/10	Andrew Motroni		Re: contact to counsel Cordes Ford & his suggestion re: Wood, carrier issues, & payment of bills	WP; AC; Irr.	X
46	3/9/10	Andrew Motroni		Re: coverage & conversation with Kevin Caberto of One Beacon	WP; Irr.	WP; Irr.
46	3/5/10 12:29p m	Andrew Motroni		Re: litigation & update to litigation plan & stipulations of dismissal	WP; AC; Irr.	WP; Irr.
46	3/5/10 12:22p m	Andrew Motroni		Re: correspondence with defense counsel & Pennco, window supplier, & other parties/insurers	WP; AC; Irr.	WP; Irr.
47	3/5/10 12:17p m	Andrew Motroni		Re: coverage & email to attorney Tom Ellis concerning coverage fo AMPICO Kemper Companies	WP; Irr.	WP; Irr.
47	3/5/10 11:51am	Andrew Motroni		Re: correspondence with defense counsel Cordes Ford & separation agreement	WP; AC; Irr.	X
47	3/5/10 11:44am	Andrew Motroni		Re: coverage & tender to Tripple J's Farming (subcontractor) & attorney William Watkins' letter	WP; Irr.	WP; Irr.
47	2/18/10	Andrew Motroni		Re: coverage & other carriers	WP; Irr.	WP; Irr.
47	2/9/10	Andrew Motroni		RE: litigation & motions filed or may file	WP; AC; Irr.	WP; Irr.
48	2/9/10 11:59am	Andrew Motroni		Re: damages/verification & potential exposure analysis	WP; Irr.	WP; Irr.

48-51	2/9/10 11:48am	Andrew Motroni		Re: litigation re: the claims & facts as understood at that time	WP; AC; Irr.; note reference the prior Wood defense tender	X
51	2/9/10	Andrew Motroni		Re: investigation into potential witness identification	WP; Irr.	WP; Irr.
52	2/9/10 11:38am	Andrew Motroni		Re: damages/verification & initial thoughts about damages & Plaintiff's case	WP; Irr.	WP; Irr.
52	2/9/10 11:37am	Andrew Motroni		Re: investigation & risk transfer opportunities	WP; AC; Irr.	WP; Irr.
52	2/9/10 11:36am	Andrew Motroni		Re: liability/evaluation & analysis of liability issues	WP; Irr.	X
53	2/9/10	Andrew Motroni		Re: litigation & laying out the insured parties, Plaintiffs, case numbers, defense attorneys, & Plaintiff's attorneys	WP; Irr.	WP; Irr.
54	2/9/10	Andrew Motroni		Re: coverage & email sent to Denise Gibson at Kemper Ins. Co. concerning declination of coverage of policyholder	WP; Irr.	WP; Irr.
55	2/9/10	Andrew Motroni		Re: contacting Scott Woodward	WP	WP; Irr.
55	2/2/10	Andrew Motroni		Re: coverage & email from Cordes Ford re: contact with Denise Gibson at Kemper Ins. Co.	WP; AC	WP; Irr.
55	1/29/10	Andrew Motroni		Re: correspondence with window manufacturer	WP; Irr.	WP; Irr.
55	1/22/10	Andrew Motroni		Re: litigation & update to the litigation plan & motions filed	WP; Irr.	WP; Irr.
55	1/8/10	Andrew Motroni		Re: litigation re: motion for summary judgment	WP; AC; Irr.	WP; Irr.
55	1/4/10	Andrew Motroni		Re: litigation re: coverage information sent to Cordes Ford	WP; AC	WP; Irr.
55	12/10/09	Andrew Motroni		Re: litigation & summary of fees	WP; AC	WP; Irr.
56	12/10/09 5:13pm	Andrew Motroni		Re: correspondence with defense counsel	WP; Irr.	WP; Irr.
56	12/10/09 5:02pm	Andrew Motroni		Re: proposed litigation budget	WP; AC	WP; Irr.
57	12/2/09 3:12pm	Andrew Motroni		Re: contact & meeting with Cordes Ford	WP; AC; Irr.	WP; Irr.

57-58	12/2/09 3:09pm	Andrew Motroni		Re: litigation re: update to litigation plan, identifying new parties, & Plaintiff's second complaint	WP; Irr.	X
59	11/24/09	Andrew Motroni		Re: investigation & scheduled conference call	WP; Irr.	WP; Irr.
59	11/23/09	Andrew Motroni		Re: coverage & other carriers sharing defense	WP; Irr.	WP; Irr.
60	11/18/09	Andrew Motroni		Re: coverage & communication with Kevin Caberto & payment of expense	WP; Irr.	WP; Irr.
60	11/17/09	Andrew Motroni		Re: coverage & payment of bills	WP; Irr.	WP; Irr.
60	11/12/09	Andrew Motroni		Re: litigation & new companion suit from Plaintiff's attorney	WP; AC; Irr.	X
61	11/11/09 4:49pm	Andrew Motroni		Re: coverage & discussion with Kevin Caberto	WP; Irr.	WP; Irr.
61	11/11/09 3:05pm	Andrew Motroni		Re: coverage & Old Republic contact & info.	WP; Irr.	WP; Irr.
61	11/11/09 8:26am	Andrew Motroni		Re: investigation & parties to proposed amended complaint	WP; AC; Irr.	X
62	11/10/09 3:54pm	Andrew Motroni		Re: coverage & noting emails sent seeking info. on each entity involved	WP; AC; Irr.	X
62	11/10/09 12:40pm	Andrew Motroni		Re: correspondence with defense counsel, TCR's actions, Plaintiff's amended complaint, & formal litigation budget	WP; AC; Irr.	WP; Irr.
63	11/10/09	Andrew Motroni		Re: message to Old Republic Risk Management	WP; Irr.	WP; Irr.
64	11/4/09	Andrew Motroni		Re: litigation & update to litigation plan & Plaintiff's amended complaint	WP; Irr.	X
64	11/3/09 10:16am	Andrew Motroni		Re: investigation, Southampton contract	WP; Irr.	WP; Irr.
64	11/3/09 10:20am	Andrew Motroni		Re: coverage & note sent to Scott Woodward with TCR re: what needs to be done with claims & seeking info.	WP; Irr.	X
73	11/3/09 8:45am-10:16am	Andrew Motroni		Re: coverage & One Beacon, Chartis, Old Republic, & Kemper	WP; Irr.	WP; Irr.
73	11/3/09 8:33pm	Andrew Motroni		Re: litigation & completion of attorney retention in file	WP; Irr.	WP; Irr.

73	11/3/09 8:24pm	Andrew Motroni		Re: contacting Cordes Ford to discuss status of case	WP; AC; Irr.	WP; Irr.
74	10/29/09 11:29pm	Andrew Motroni		Re: litigation & selection of defense counsel	WP; AC; Irr.	WP; Irr.
74	10/29/09 9:26pm	Andrew Motroni		Re: coverage & other carriers	WP; Irr.	WP; Irr.
74	10/29/09 9:24pm	Andrew Motroni		Re: litigation & update to litigation plan & defense counsel's filed answers	WP; Irr.	WP; Irr.
74	10/13/09	Andrew Motroni		Re: correspondence sent to the insured re: notice of other carriers	WP; Irr.	X
75	7/7/09	Andrew Motroni		Re: investigation & conversation with Scott Woodward of TCR & his comments about the complaint	WP; AC; Irr.	X

Tab 3 Miscellaneous**A – Email Correspondence**

Tab	Date	Author/From	Recipient	Description	Privilege	Ruling
A1	10/27/11	John Jacks	John Huckenpoehler, Lee Ogburn	Re: an issue involving the defense of Wood & a planned conference call	Only to internal correspondence at 1:15pm	X
A2	10/31/11	John Jacks, John Catizone	John Jacks, John Catizone, John Huckenpoehler, Kevin Caberto	Re: indemnity issue & agreement with TCR		X
A3	6/6/11-6/7/11	Randal Kempka, John Huckenpoehler	Randal Kempka, Fawn Vasquez, John Huckenpoehler	Re: coverage of Wood & TCR & issues re: case	AC	X
A4	7/13/11-7/21/11	Cordes Ford, John Jacks	John Jacks, John Huckenpoehler, Kevin Caberto	Re: updates from Cordes Ford re: case	Irr.	AC; WP; Irr.
A5	9/23/11	John Huckenpoehler	Fawn Vasquez, John Jacks	Re: coverage of Wood	AC	X
A6	10/27/11-10/28/11	Wilma Delgado, Sharon Brooks, Laurie LeBel, John Huckenpoehler, John Jacks	Wilma Delgado, Travelers SOP, Sharon Brooks, Laurie LeBel	Re: new litigation file	Only to: 10/27/11 at 8:49am; 10/28/11 at 9:17am, 9:21am, 9:31am, 9:32am	X

A7	7/11/12 - 7/13/12	John Jacks	Margaret Painther,	Re: attachment (not provided)	Only to internal communicat ion at: 7/13/12 at 12:51pm	X
B – Additional Documentation						
Tab	Date	Author/From	Recipient	Description	Privilege	Ruling
B1	7/7/09			St. Paul Claim Summary CLM 3148	AC	X
B2	11/9/10			St. Paul Claim Summary CLM3217	AC	X
TCR Underwriting File (separate CD)						
				TCR Underwriting File	Irr.; pending litigation in TX; trade secret and/or proprietary info.; does not apply to Plaintiff's assignor	X